

Message Text

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ACTION L-03

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FM AMEMBASSY COPENHAGEN
TO SECSTATE WASHDC 6727

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FOR L/ M/ SCA

E. O. 11652: N/ A
TAGS: CGEN, PGOV, DA
SUBJECT: DANISH OBSCENITY PROSECUTION

REF: STATE 052782

1. ON MARCH 13, DANISH SUPREME COURT UPHELD
CONVICTION OF OWNER OF DANISH FIRM FOR EXPORTING
UNSOLICITED PORNOGRAPHY TO GERMANY IN VIOLATION OF
DANISH POST OFFICE ACT WHICH, INTER ALIA, PROHIBITS
SENDING ITEMS MENTIONED IN CONVENTIONS, E. G.,
INTERNATIONAL POSTAL CONVENTION, ABROAD BY MAIL.
THIS SUPREME COURT DECISION (PUBLIC PROSECUTOR VS.
BENT JORGENSEN - SUPREME COURT CASE
NUMBER 207/1972, MARCH 13, 1973) EXHAUSTS ALL
APPEALS POSSIBILITIES IN THIS CASE. DEFENDANT
WHO IS OWNER OF INTERMSG A/ S, WHICH SPECIALIZES IN
PORNOGRAPHY, WAS FINED DKR. 2000.00 (DKR. 6.176 EQUAL
\$1.00), DOUBLING LOWER COURT FINE.

2. BAEKGAARD, MINJUSTICE OFFICE DIRECTOR, NOTES
ADDITIONAL INTERESTING ASPECTS OF DECISION:

(A) DECISION CONFIRMS THAT REFERENCE TO CONVENTION
IN THIS CASE WAS PROPER, EVEN THOUGH CONVENTION TERMS NOT
PUBLISHED IN DANISH OFFICIAL GAZETTE, BECAUSE DANISH
POST OFFICE ACT HAD BEEN SO PUBLISHED. JORGENSEN/ INTERMAG
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CLAIM THAT IT COULD NOT BE REASONABLY EXPECTED TO KNOW
OF PENALTIES INVOLVED THEREFORE DISMISSED BY SUPREME
COURT.

(B) IN FUTURE CASES OF THIS TYPE , COMPLAINT WOULD
PRESUMABLY ORIGINATE WITH PRIVATE PERSONS RECEIVING
UNSOLICITED PORNOGRAPHIC OR OBSCENE MATERIAL, WHO MAY
THEN BRING CASE TO ATTENTION OF DANISH AUTHORITIES,
EITHER FORMALLY THROUGH DIPLOMATIC CHANNELS OR
INFORMALLY WITH RECIPIENT GOING DIRECT TO EITHER
PUBLIC PROSECUTOR OR POLICE CHIEF.

(C) UNDER DANISH LEGAL PROCEDURES, TWO YEAR STATUTE
OF LIMITATIONS EXISTS. IN VIEW OF THIS RELATIVELY SHORT
PERIOD, EMBASSY RECOMMENDS THAT, IN ANY FORMAL
PRESENTATIONS IN FUTURE, TRANSMITTAL OF DETAILS BE BY
EMBASSY TO FONOFF RATHER THEN DEPARTMENT TO DANISH EMBASSY.

3. BAEKGAARD PROMISED SEND EMBASSY COPIES OF LOWER AND
SUPREME COURT DECISIONS IN THIS CASE, WHICH WE WILL
FORWARD WITH ENGLISH TRANSLATIONS OF PERTINENT EXTRACTS TO
L / M/ SCA.
DUNNIGAN

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*** Current Handling Restrictions *** n/a

*** Current Classification *** UNCLASSIFIED

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